

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

H. M. WHITE, LLC,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO.
)	
DÜRR INDUSTRIES, INC.,)	CV-05-0879-B
)	
Defendant.)	

MOTION TO DISMISS FOR LACK OF JURISDICTION

COMES NOW Defendant, Dürr Industries, Inc., a corporation, (“Defendant”), and herein moves to dismiss the Complaint previously filed by Plaintiff, H. M. White, LLC, a limited liability company, (“Plaintiff”), and, as grounds therefor, shows unto the Court as follows:

1. Defendant is not subject to diversity jurisdiction of this Court pursuant to 28 U.S.C. § 1332 because both Defendant and Plaintiff are citizens of the State of Michigan.

2. Plaintiff, as alleged in paragraph 1 of the Complaint, is a limited liability company formed under the laws of the State of Michigan, with its principal place of business in Detroit, and Defendant, as alleged in paragraph 2 of the Complaint, is a corporation organized under the laws of

the State of Michigan. Consequently, this case is between citizens of the same state and is inappropriate for federal court jurisdiction under 28 U.S.C. § 1332.

WHEREFORE, PREMISES CONSIDERED, Defendant, Dürr Industries, Inc., herein requests that the Court dismiss this case for lack of jurisdiction, with the costs thereof to be taxed to Plaintiff.

Respectfully submitted,

/s/ Frank M. Young, III
Jamie Johnston
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Inc.

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have, on this the 11th day of October, 2005, filed the foregoing with the Clerk of the U. S. District Court, Middle District, Northern Division, using the CM/ECF system which will electronically send notification of such filing to the following:

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